

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
BLUEFIELD DIVISION**

KELLY WAYNE CHRISTIAN,

Plaintiff,

1:19-CV-00271

vs.

J.A. TUPPER,

Defendant.

ORDER

Pending before the Court is Defendant's *Motion for Leave to Permit Late Filing of Responsive Pleading*, filed on July 1, 2019. (ECF No. 9) On June 20, 2019, the undersigned issued a Notice of Failure to Answer within Appropriate Time Frame. (ECF No. 8)¹ It is noted that Plaintiff has not sought default and no default judgment has been entered since entry of the Court's Notice.

Defendant explains that after service of the letter complaint, clarification was needed to confirm whether the defense of this matter would be handled in-house, by the West Virginia State Police, Defendant's employer, or by outside counsel. On July 1, 2019, the West Virginia State Police requested Defendant's counsel, Wendy Greve, Esq. and her offices to handle this case. Counsel for Defendant asserts that little time has passed since the initial filing of this lawsuit, and that Defendant himself was not dilatory in failing to respond to the letter complaint, as there were delays in communication from the West Virginia State Police in-house counsel to confirm representation of Defendant in this matter due to certain individuals being out of the office or on military leave. Further, counsel for Defendant points out that there are meritorious defenses in this

¹ The U.S. Marshal Service served Defendant on May 23, 2019, thereby, his responsive pleading was due on or before June 13, 2019. (ECF Nos. 6, 7)

case and that case law has long favored disposition of cases on their merits², and no prejudice will befall Plaintiff should the Motion be granted, as default judgment has not been entered.

Finding good cause for Defendant's Motion, it is hereby **GRANTED**. (ECF No. 9) Defendant shall file his answer or responsive pleading **no later than twenty (20) days** from the date of this Order.

The Clerk is directed to transmit this Order to *pro se* parties and counsel of record.

ENTER: July 2, 2019.



Omar J. Aboulhosn
United States Magistrate Judge

² See United States v. Moradi, 673 F.2d 725, 727 (4th Cir. 1982).